



The Comptroller General
of the United States

Washington, D.C. 20548

McCaughy

Decision

Matter of: Peter F. Dessauer and Richard E. Wells - Temporary
Duty - Long-Term Assignments

File: B-231520

Date: June 2, 1989

DIGEST

Two Interior Department employees, who were assigned to temporary duty on the Statue of Liberty/Ellis Island project, may be paid per diem even though their assignments may last 2 to 3 years. These assignments can be considered temporary duty given the nature of the duties and the fact that the project is time-limited even though it has encountered unanticipated delays beyond the control of the agency. See Edward W. DePiazza, B-234262, dated today.

DECISION

This decision is in response to a request by the Department of the Interior concerning per diem payments to two Interior Department employees who have been on long-term temporary duty assignments at the Statue of Liberty/Ellis Island Project Office.^{1/} We conclude that these two employees may be paid per diem for this assignment; it does not require a permanent change of station.

BACKGROUND

The two Interior employees involved in this case are Mr. Peter Dessauer, an architect, and Mr. Richard E. Wells, a construction manager. They have been assigned to monitor and inspect the Statue of Liberty/Ellis Island rehabilitation project. Both employees' permanent duty stations are in Denver, Colorado, and they have been on temporary duty travel status since their assignments to this project in 1986 and 1987, respectively.

^{1/} The request was submitted by Mr. Mark D. Hooper, Chief, Branch of Accounts Payable, National Park Service, Department of the Interior, Denver, Colorado.

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The request from Interior explains that Messrs. Dessauer and Wells work in the Denver Service Center, a centralized architectural, design, and construction office which serves the entire National Park Service. In many cases, project supervisors from this office move from project to project in continuous travel status, with their official duty stations remaining in Denver, Colorado. However, there are frequent occasions where a project is so large in scope, as in the present case, that employees from this office are required to remain in one location for an extended period of time.

The Interior Department's submission also states that this project is a temporary project similar to any other construction project, even though this assignment may last 2 to 3 years. When the employees were assigned to this project, the Interior Department reasonably believed that the duration of the assignment would be for a much shorter period. However, there were delays which took place which were beyond the control of Interior Department or these two employees. Interior argues that the delay should not change the essential character of the construction supervision function, which is temporary rather than permanent.

In view of our decisions limiting the length of temporary duty assignments, Interior asks whether these employees' per diem allowances may be continued or whether the employees must be transferred under permanent change-of-station orders to New York.

OPINION

Our decisions have held that whether an assignment to a particular location should be considered a temporary duty assignment or a permanent change of station is a question of fact to be determined from the orders directing the assignment, the duration of the assignment, and the nature of the duties performed. Bertram C. Drouin, 64 Comp. Gen. 206 (1985); Peter J. Dispenzirie, 62 Comp. Gen. 560 (1983), and cases cited therein.

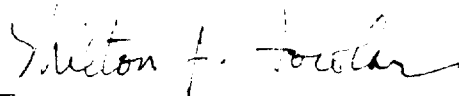
As discussed above, the character of an assignment must be determined not only from its duration but also from the nature of the duties assigned. In this case considering the temporary nature of the project and of the architectural and construction supervision function, we conclude that the assignments fulfilled a legitimate objective of temporary duty. In addition, we note that the work must be performed at a particular location and it is expected that the employees will return to the permanent duty station (or move to another construction project) at the completion of this assignment. Therefore, we would not object to the

payment of per diem to these two employees until the completion of their assignments. See Edward W. DePiazza, B-234262, dated today.

Finally, Interior asks whether employees who are assigned to one temporary duty site for a legitimate long-term temporary duty assignment and then reassigned to another temporary duty site may continue to receive per diem if they return on temporary duty to the first site. For example, Mr. Dessauer was first assigned to the Statue of Liberty/Ellis Island project in New York during the summer of 1985. From the fall of 1986 to the fall of 1987 he worked on another project in Boston before returning to his first assignment in New York. Interior asks whether Mr. Dessauer is limited to 1 year of per diem in New York or whether he may resume his temporary duty assignment in New York.

Our response to the question is that the length of time on temporary duty does not govern the per diem entitlement. The agency need not compute the months at each assignment to determine whether the employee has exceeded an arbitrary figure, such as 1 year of per diem payments. Instead, the agency should analyze each long-term assignment based on the criteria set forth above to determine whether the assignment is permanent in nature and should be accomplished by a relocation of the employee, or whether it is temporary in nature and should be performed under temporary duty travel.

Accordingly, the vouchers submitted to our Office and other similar temporary duty vouchers from these two employees may be paid, if otherwise proper.


Acting Comptroller General
of the United States